

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:24.09.2020

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.M.P.No.5508 of 2020

in Crl.A.No.367 of 2020

Senthil

..Petitioner /Appellant / Accused

Vs.

The State, Rep by
The Deputy Superintendent of Police
Sankari Sub Division, Salem.

(In Cr.No.227/2013 Magudanchavadi P.S)..Respondent / Respondent /
Complainant

Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C., praying to suspend the sentence imposed in judgment dated 19.09.2019 made in S.C.No.15 of 2015 on the file of the Principal District Sessions Court, Salem (Special Court for S.C. & S.T. (Prevention of Atrocities) Act 1989, by allowing this Criminal Appeal.

For Petitioner : Mr.D.Mario Johnson

For Respondent : Mrs.P.Kritika Kamal
Govt. Advocate (Crl. Side)

ORDER

This case is taken up through video conferencing.

2. This petition has been filed seeking to suspend the sentence imposed on the petitioner by the learned Principal District Sessions Court, Salem (Special Court for S.C. & S.T. (Prevention of Atrocities) Act 1989, in S.C.No.15 of 2015, vide order dated 19.09.2019.

3. The case of the prosecution is that the defacto complainant is one Shanmugam, who was a mason by profession and he belongs to the Scheduled Caste. The accused belongs to a Vanniyar Community and he is a resident of Chinnappampatty. On the date of occurrence i.e., 23.04.2013, the defacto complainant along with his workers attended construction work in the house of one Ganesan, who is also a resident of the said area, and that on return from work, the accused waylaid the defacto complainant, abused him disrespecting his community using unparliamentary words and assaulted him with hands and also with deadly weapons. Thereafter, on the same day, he was admitted in Government Hospital at Edappaddy. Hence, a case in Crime

No.227/2013 on the file of Magudanchavadi Police Station, came to be registered against the petitioner. Thereafter, the Judicial Magistrate No.II, Sankari, by order dated 06.11.2014 in P.R.C.No.12/2014, committed the case to trial under Section 209 Cr.P.C. During trial, the defacto complainant was no more and hence, he was not examined by the prosecution.

4. The petitioner was tried in S.C.No.15/2015 on the file of the Principal Sessions Judge, Salem, (Special Court of Scheduled and Scheduled Tribes, (Prevention of Atrocities) Act, 1989, and was convicted of the offences under Sections 324 IPC and Section 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and sentenced as under:

S.No.	Provision under which convicted	Sentence
1	Section 324 IPC	Two years rigorous imprisonment and fine of Rs.1,000/-, in default, to undergo simple imprisonment for a further period of 6 months.
2	Section 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989	Two years simple imprisonment and fine of Rs.1,000/-, in default, to undergo simple imprisonment for a further period of 6 months

The aforesaid sentences were ordered to run concurrently.

5. Challenging the conviction sentence, the petitioner has filed the present appeal along with the criminal miscellaneous petition seeking to enlarge the petitioner on bail by suspending the sentence imposed on him.

6. Heard Mr.D.Mario Johnson, learned counsel for the petitioner and Mr.P.Kritika Kamal, learned Government Advocate (Crl.Side) appearing for the respondent/State.

7. It is submitted that the petitioner is in incarceration from 19.09.2019, since his counsel had failed to file an application under Section 389(3) Cr.P.C.,

8. The petitioner has raised substantial grounds in the appeal which require a detailed appraisal. Further, the appeal is not likely to be taken up in the near future. Taking into consideration the facts and circumstances of the case and the nature of the evidence apart, this Court is of the view that the petitioner is entitled to the reliefs of suspension of sentence and bail, till the disposal of the appeal.

9. Accordingly, the reliefs of suspension of sentence and bail are granted to the petitioner on the following conditions:

(i) The petitioner shall be released on bail on he executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only), with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Principal District Sessions Court, Salem (Special Court for S.C. & S.T. (Prevention of Atrocities) Act 1989.

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Principal District Sessions Judge, Salem (Special Court for S.C. & S.T. (Prevention of Atrocities) Act 1989, may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity; and

(iii) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

-sd/-
24/09/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE PRINCIPAL DISTRICT SESSIONS JUDGE,
SALEM[SPECIAL COURT FOR S.C. & S.T.
[PREVENTION OF ATROCITIES ACT 1989]

2 THE DEPUTY SUPERINTENDENT
OF POLICE, SANKARI SUB DIVISION,
SALEM

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

4 THE DEPUTY SUPERINTENDENT OF POLICE.
SALEM

5 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

7 THE STATE REPRESENTED BY
THE DEPUTY SUPERINTENDENT OF POLICE,
SANKARI SUB DIVISION,
SALEM,

C.C. to M/S. D.MARIO JOHNSON Advocate on payment of necessary
charges

Order

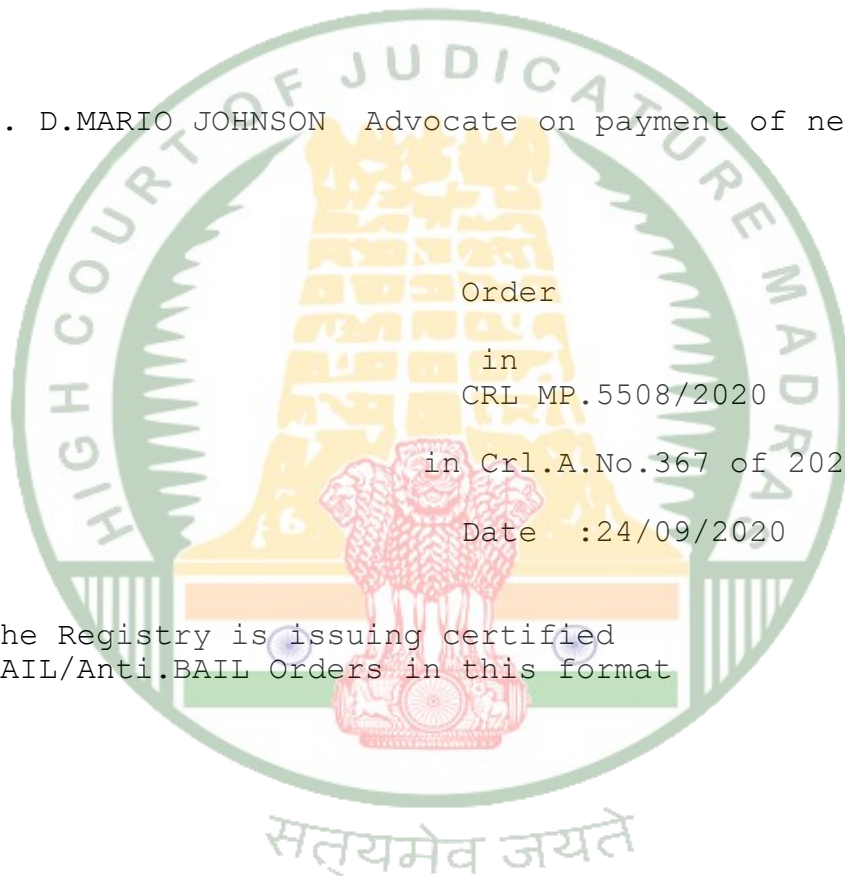
in

CRL MP.5508/2020

in Crl.A.No.367 of 2020

Date :24/09/2020

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RD 25/09/2020



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